

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KIA CHEVALIER,

No. C-07-0401 MMC

Plaintiff,

**ORDER CERTIFYING APPEAL AS  
FRIVOLOUS**

v.

SUTTER HOTEL, et al.,

Defendants.

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Before the Court is Magistrate Judge Edward M. Chen's Order Conditionally Granting Defendant's Motion to Compel ("Order"), in which the Magistrate Judge, inter alia, recommends that this Court issue a certification that plaintiff's interlocutory appeal, filed April 2, 2008, is frivolous, (see Order, filed April 16, 2008 at 2), and conditions his granting of defendant's motion to compel upon such certification.

The Court agrees that the order from which the April 2, 2008 appeal is taken, specifically, the Court's March 5, 2008 Order Denying Plaintiff's Motion to Strike,<sup>1</sup> is a non-appealable interlocutory order.

Accordingly, in light of the Magistrate Judge's recommendation, and in the interest of effectuating the Magistrate Judge's discovery order, the Court hereby CERTIFIES that the

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<sup>1</sup> Plaintiff sought to strike defendant's answer and the appearance of defendant's counsel.

1 Appeal taken by plaintiff from the March 5, 2008 interlocutory Order Denying Plaintiff's  
2 Motion to Strike, is frivolous.

3 **IT IS SO ORDERED.**

4 Dated: May 6, 2008

  
5 MAKINE M. CHESNEY  
United States District Judge